

OPINION
49-127

December 12, 1949 (OPINION)

LIVESTOCK

RE: Running at Large on Highway

Acknowledging receipt of your letter of December 8th addressed to Hon. Wallace E. Warner, Attorney General, the matter has been referred to me in my capacity as Special Assistant Attorney General for the State Highway Department.

Section 36-1101 N.D.R.C. 1943 provides as follows "no cattle, horses, mules, swine, goats or sheep shall be permitted to run at large at any time except as provided in this chapter". The exceptions to this law are cases where the County Commissioners by resolution establish stock districts after sixty percent of the electors of the district have petitioned the County Commissioners to permit stock to run at large in such districts.

Under these laws that livestock may not run at large, it becomes the duty of persons owning livestock to see to it and to take reasonable care and caution that they do not let their cattle run at large on Public Highways so as to endanger public safety, and it is their duty to confine their livestock in suitable fences or enclosures, or when driving them on a highway to have someone in charge of the cattle or livestock. A general rule of law is that every violation of a law constitutes negligence; consequently, if livestock are permitted to run at large on the public highways of the state in areas where no stock district has been established as provided by our law and an accident occurs, the owner is negligent, and if such negligence proximately causes any damage or accident the owner of the livestock would be liable unless the driver of the vehicle is also negligent in the operation of his vehicle and that negligence proximately causes or contributes to the accident and injury.

WALLACE E. WARNER

Attorney General